

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ••• 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance •• Administration •• Executive/Legal •• Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

July 31, 1985

Thomas E. Greer, A.A.E.
Director, Airport Services
Burbank-Glendale-Pasadena Airport Authority
2627 Hollywood Way
Burbank, CA 91505

Re: Your Request For Advice;
Our No. A-85-160

Dear Mr. Greer:

We are in receipt of your letter of July 16, 1985, seeking advice relative to Airport Authority Commissioner Margie A. Gee. The Fair Political Practices Commission's regulations provide that formal written advice may be requested only by a person whose duties under the Political Reform Act^{1/} are in question or by that person's authorized representative. 2 Cal. Adm. Code Section 18329 (copy enclosed). However, this regulation also states that the staff may provide informal assistance to any agency whose members or employees are subject to the provisions of the Act. In this capacity we are able to provide you with general assistance in the application of the Act.

Section 87100 prohibits any public official from making, participating in, or in any way attempting to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. A public official has a financial interest in a governmental decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

^{1/} The Political Reform Act, Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

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(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103.

For guidance in determining whether the effect of a governmental decision on an official's financial interests is reasonably foreseeable, I am enclosing a copy of the Thorner Opinion, 1 FPPC Opinions 198 (No. 75-089, Dec. 4, 1975). In this opinion, the Commission stated that an effect is reasonably foreseeable only if there is a substantial likelihood that the effect will occur, as opposed to a mere possibility of its occurrence.

Commission regulation 2 Cal. Adm. Code Section 18702 states that the effect of a decision will be considered material if it is significant. The Commission has adopted the following monetary guidelines for determining whether the effect of a decision on an interest in real property will be considered significant:^{2/}

(b) In determining whether it is reasonably foreseeable that the effects of a governmental decision

^{2/} Please be advised that the commission is in the process of reviewing and revising its conflict of interest guidelines. Consequently, the current guidelines may not apply at a future date.

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will be significant within the meaning of the general standard set forth in paragraph (a), consideration should be given to the following factors:

. . . .

(2) Whether, in the case of a direct or indirect interest in real property of one thousand dollars (\$1,000) or more held by a public official, the effect of the decision will be to increase or decrease:

(A) The income producing potential of the property by the lesser of:

1. One thousand dollars (\$1,000) per month; or

2. Five percent per month if the effect is fifty dollars (\$50) or more per month; or

(B) The fair market value of the property by the lesser of:

1. Ten thousand dollars (\$10,000); or

2. One half of one percent if the effect is one thousand dollars (\$1,000) or more.

2 Cal. Adm. Code Section
18702(b) (2).


Finally, if an official determines that a particular governmental decision could have a reasonably foreseeable material financial effect on his or her financial interests, it must be determined whether that effect is distinguishable from the effect on the public generally. A material financial effect of a governmental decision on an official's interests is distinguishable from its effect on the public generally unless the decision will affect the official's interest in substantially the same manner as it will affect all members of the public or a significant segment of the public. 2 Cal. Adm. Code Section 18703.

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As Mr. Holland, the City Attorney of Burbank correctly stated in his opinion to the Burbank City Council: "The mere existence of a conflict or potential conflict does not disqualify an official from holding office." However, if an official determines that a governmental decision would have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on any of the official's financial interests, then the official must disqualify him or herself from participating in that decision.

I hope this informal assistance is helpful to you. If you require additional assistance regarding the Political Reform Act, please contact us. We are enclosing a copy of our pamphlet on conflicts of interest for your review. My telephone number is (916) 322-5901 and I will be happy to answer any question you may have about this letter. Should Commissioner Gee desire formal advice regarding a specific decision we would be happy to provide her, or her authorized representative, with such advice.

Sincerely,


Robert E. Leidigh
Counsel
Legal Division

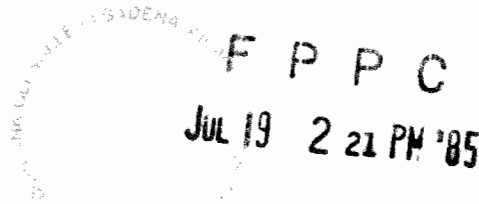
REL:JG:nwm
cc: Margie Gee
Enclosures

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Thomas E. Greer, Director
Airport Services



July 16, 1985

Fair Political Practices Commission
Legal Division
1100 K Street, 3rd Floor
Sacramento, California 95814

Gentlemen:

The Burbank-Glendale-Pasadena Airport Authority would like to ask that your office prepare an opinion regarding the status of Airport Authority Commissioner Margie A. Gee on this Commission. Mrs. Gee, who was recently appointed to the Authority by the Burbank City Council, is a plaintiff in two lawsuits against the Authority, and the Authority would like to clarify the effect, if any, of these lawsuits on Mrs. Gee's role as a commissioner.

I am submitting with this letter an opinion rendered by the Authority's legal counsel, Kadison, Pfaelzer, Woodard, Quinn & Rossi, and an opinion submitted by Douglas Holland, City Attorney of Burbank.

Thank you very much for your assistance in this matter.

Sincerely,

A handwritten signature in black ink that reads 'Thomas E. Greer'. The signature is written in a cursive, flowing style.

Thomas E. Greer, A.A.E.
Director, Airport Services

TEG:mb

Enclosures